

**IOWA RACING AND GAMING COMMISSION
MINUTES
JANUARY 10, 2008**

The Iowa Racing and Gaming Commission (IRGC) met at Stoney Creek Inn & Conference Center, 5291 Stoney Creek Court, Johnston, Iowa, on Thursday, January 10, 2008. Commission members present were Kate Cutler, Chair; Gerry Bair, Vice Chair, and members Diane Hamilton, Greg Seyfer and Toni Urban.

Chair Cutler called the meeting to order and requested a motion regarding the agenda. Jack Ketterer, IRGC Administrator, advised that Item 7 – Review of Iowa Code Section 99F.6(4)a – would be moved up on the agenda and become Item 4, with the agenda being renumbered accordingly. Commissioner Bair moved to approve the agenda as amended. Commissioner Urban seconded the motion, which carried unanimously.

Chair Cutler moved to approval of the minutes. Commissioner Seyfer moved to approve the minutes of the November 8, 2007 meeting and December 11, 2007 telephonic meeting as submitted. Commissioner Bair seconded the motion, which carried unanimously.

Chair Cutler called on Mr. Ketterer for announcements. Mr. Ketterer recognized thoroughbred owner Maggi Moss for her nomination for an Eclipse Award as one of the outstanding thoroughbred owners in the nation, competing against international figures. He noted there are three finalists with the decision being made the end of January or early February.

Mr. Ketterer moved to the upcoming meetings:

- February – No Meeting
- March 6, 2008 Commission Meeting – Stoney Creek Inn, Johnston, IA
- April 17, 2008 Commission Meeting – Diamond Jo Worth, Northwood, IA
- June 5, 2008 Commission Meeting – Wild Rose Emmetsburg, Emmetsburg, IA

The March meeting will be the renewal of the gambling boat and gambling structure licenses. There will also be a discussion by Commission members on additional licenses in the state. This issue was addressed last March, at which time Commission members expressed a desire to wait until next year after Waterloo had been open a few months prior to addressing the issue again.

Chair Cutler moved to the review of Iowa Code Section 99F.6(4)a –Simultaneous Submissions – by Jeff Peterzalek, Assistant Attorney General. Mr. Ketterer stated that he sought the review, and discussed this matter with Mr. Peterzalek, in an effort to enable the quarter horse and standard bred organizations and Prairie Meadows Racetrack & Casino (PMR&C) to move ahead with the three-year agreements that they negotiated last fall. The joint submission process has seemed difficult for all the parties to accomplish, and has not been accomplished since the law was passed. He noted that Commissioner Seyfer raised the issue of the Declaratory Ruling Order that the Commission issued in August 2006. At that time, the Commission considered several interpretations as the language is somewhat ambiguous, and lends itself to several interpretations. After much deliberation, the Commission settled on all agreements being submitted jointly and included with the license renewal and application for race dates for any of them to be considered. That has never occurred.

Mr. Ketterer advised that he and Mr. Peterzalek then sought an answer to Commissioner Seyfer's question as to the impact of the Declaratory Order Ruling and its effect on any future action or interpretation by the Commission. He stated that Mr. Peterzalek would address that issue.

Mr. Peterzalek echoed Mr. Ketterer's comment that the Commission has previously entered a Declaratory Order Ruling interpreting the specific statute dealing with the "jointly submitted" language. He concurred that the language is somewhat ambiguous and does lend itself to more than one potential interpretation. Mr. Peterzalek stated that it is the Commission's duty to interpret the statute in accordance with the law and/or facts presented to them, which was done in this case. The Commission concluded, based upon the facts, statutory authority, and the Commission's analysis, that "'jointly submitted" means all agreements related to purses with horse groups identified in Prairie Meadows' application for race dates must be submitted together."

Mr. Peterzalek noted that as that verbiage was included in a Declaratory Order Ruling, the legal authority would support the position that the Declaratory Order is binding on the Commission absent any change in facts, law, or circumstances. He noted that one of the authorities provided is that the reason for a Declaratory Order is to provide advice and binding guidance, not only to the public, but to the Commission and future Commissions on issues that may be important to participants in the area being regulated. Mr. Peterzalek stated it was his recommendation that absent any change in the law, circumstances or facts that the Declaratory Order Ruling entered in August of 2006 would and should still be followed by the Commission with respect to the interpretation of that specific Code Section.

Mr. Ketterer stated that based on Mr. Peterzalek's interpretation, there can be no change in the status quo, meaning that later on the agenda the Commission can not approve the purse agreements between PMR&C and the quarter horse and standard bred organizations as there is no agreement with the thoroughbreds in light of the fact that PMR&C applied for and received racing dates for thoroughbreds. He noted that race

dates and purses for 2008 were set by the Commission in November. All three horsemen's groups can continue to negotiate agreements for 2008 on matters of mutual interest other than purses and race dates. The quarter horse and harness organizations and PMR&C can submit the language from their three-year agreements and submit them in September with PMR&C's 2009 Race Date application for 2009 and 2010 if they choose. The thoroughbreds and PMR&C will need to reach an agreement sometime before September and submit that agreement for any of the agreements to be considered by the Commission, assuming PMR&C applies for race dates for all three types of racing as they have done the past several years.

Mr. Ketterer indicated this was an attempt to facilitate or move forward with the agreements that have been submitted, but it did not work out as hoped. He asked for an update with regard to negotiations with the thoroughbred group later in the agenda.

Commissioner Bair asked what would occur if the Commission looked back and determined they erred in how they ruled in the Declaratory Order Ruling. He wondered if it is incumbent upon the Commission to review the Declaratory Ruling and, with public input, take another look at the issue.

Mr. Peterzalek indicated there are a couple of different mechanisms in place for reviewing the Declaratory Order, including the consideration of another Declaratory Order. He stated that a Declaratory Order Ruling issued by the Commission essentially has the same effect as a final ruling in a contested case proceeding, and would be subject to judicial review. He reiterated that the only reason to review or vacate the Declaratory Order Ruling would be a change in the law, facts, or circumstances. Someone who challenged such a new Declaratory Order may have some basis for their challenge.

Hearing no further comments or questions for Mr. Ketterer or Mr. Peterzalek, Chair Cutler moved to the Rules being submitted for final adoption. Mr. Ketterer noted these rules were submitted under Notice of Intended Action at the October Commission meeting; and that there was no public input at the public hearing. In lieu of reviewing all of the proposed rules, Mr. Ketterer called for any questions. As there were none, he recommended that the proposed rules be approved for final adoption.

Commissioner Bair requested that Mr. Ketterer give a brief overview of the rule making process. Mr. Ketterer did so. He noted that the Commission's process provides three opportunities for public input on the proposed rules. Commissioner Bair noted that the rule making process has been in place for thirty years.

Hearing no comments or questions concerning the rules, Chair Cutler requested a motion. Commissioner Bair moved to approve the rules for final adoption. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-01)

Chair Cutler moved to the contract approval portion of the agenda and called on Isle of Capri Bettendorf (IOCB). Barron Fuller, General Manager at IOC Marquette, presented a contract with Sedona Staffing for temporary staffing services on behalf of Bettendorf.

Hearing no comments or questions concerning the contract, Chair Cutler requested a motion. Commissioner Urban moved to approve the contract as submitted by IOCB. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 08-02)

Chair Cutler called on Argosy Casino. Kees Eder, General Manager, presented the following contracts for Commission approval:

- PowerTech – Automatic Switch – Power Source Upgrade
- Alter & Alvarez – Legal Services

Commissioner Bair asked about the legal services contract with a firm in St. Louis, Missouri. Mr. Eder advised the firm is retained by corporate, and has provided services for approximately ten years. Commissioner Bair asked if any services are performed by local attorneys. Mr. Eder answered in the negative.

Hearing no further comments or questions, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Argosy. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 08-03)

Chair Cutler called on Harrah's. Jeannie Magdefrau, Vice President of Finance, presented a contract with Mid-America Center for a luxury lease suite agreement.

Hearing no comments or questions regarding the contract, Chair Cutler requested a motion. Commissioner Urban moved to approve the contract as submitted by Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 08-04)

Chair Cutler called on the isle casino & hotel at Waterloo (the isle). Kim Hardy, General Manager, presented the following contracts for Commission approval:

- Mediacom Communications – Television Service
- PAW Marketing – Marketing Promotional Items
- Altofer, Inc. – Maintenance for Emergency Generator
- Aramark – Laundering Service

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the contracts as submitted by the isle. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 08-05)

Chair Cutler called on Diamond Jo Worth (DJW). Jesus Aviles, General Manager, presented a contract with Sysco Food Service for food, non-alcoholic beverages, smallwares and equipment.

Hearing no comments or questions concerning the contract, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the contract as submitted by DJW. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 08-06)

Chair Cutler called on Diamond Jo (DJ). Mr. Aviles presented the following contracts for Commission approval:

- Konami Gaming – Slot Machines, Conversions and Parts
- Sysco Food Service – Food, Non-Alcoholic Beverages, Smallwares, and Equipment

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Bair moved to approve the contracts as submitted by DJ. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-07)

Chair Cutler called on Ameristar Casino. Teresa Meyer, General Manager, presented the following contracts for Commission approval:

- Amsan Nogg Chemical & Paper – Cleaning Equipment Supplies & Services
- Constellation New Energy – Utility
- Data Business Equipment – Cage Equipment & Service Contract
- Dell Marketing – Computer Equipment
- Gary Platt Manufacturing – Slot Stools for Casino
- Gas Mart – Vehicle Fuel
- Greenberg Fruit Company - Produce
- Iron Mountain – Document Storage
- Jacobson Fish Company – Seafood Purchases
- Nebraska Iowa Supply Company, Inc. – Boat Fuel
- Pentzien, Inc. – Vessel Slip Maintenance
- Trane Company – Water Heaters
- Global Surveillance – Cameras & Related Equipment

Commissioner Urban asked for an explanation regarding the contracts with a non-Iowa address, but that are considered to be an Iowa vendor. Ms. Meyer explained that the corporate office may be out-of-state, but that the product is being purchased in Iowa. She used the contract with Gas Mart as an example; the main office is in Kansas, but the actual gas is purchased in Iowa. Ms. Meyer noted that two of the criteria for being considered an Iowa vendor is that goods are distributed through a distributor located in

Iowa, and goods, resources or services are provided by a vendor whose headquarters/home office is located outside Iowa, but which has a tangible business location and does business in Iowa.

Hearing no further comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Ameristar. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-08)

Chair Cutler called on Riverside Casino & Golf Resort (RCGR). Dan Kehl, President, distributed a copy of the Winter 2007 Iowa Golf Magazine, which has an article on the GIVE Foundation. The Foundation is a cooperative arrangement between the Iowa PGA Association, the Veterans Administration Medical Center in Iowa City and RCGR that teaches injured veterans the rules and etiquette of golf. The veterans are then fitted for their own free clubs, which are customized to their swing/abilities and takes their injuries into consideration. Mr. Kehl indicated the article is going to be reprinted in the PGA national magazine this month. The PGA hopes to take this program national. Mr. Kehl advised the Commission that the Blue Top Ridge Golf Course at RCGR was rated as one of the top three courses in the country.

Mr. Kehl presented the following contracts for Commission approval:

- State University of Iowa Hospitals & Clinics – Health Plan Costs 2007 – Medical
- Pharmaceutical Technologies, Inc. – Health Plan Costs 2007 – Pharmacy
- Low Tide, LLC & Kehl Development Corp. – Lease of Aircraft
- First Administrators, Inc. – Health Plan Benefit Administrator
- Postini, Inc. – E-mail Security for Enterprises
- Wells Fargo – Debt Refinancing

Mr. Kehl indicated Riverside experienced a great fall, and just implemented a profit sharing program for the employees, which has been well received.

Hearing no further comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the contracts as submitted by RCGR. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-09)

Chair Cutler called on Wild Rose Emmetsburg (WRE). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, presented the following contracts for Commission approval:

- Central Credit LLC – Check Guarantee Services
- KW Electric – Electrical Work
- MetLife SBC – Employee Benefits

- Peterson Contractors, Inc. – Removal of Water from Beneath Casino Floor

Mr. Timmons advised the Commission that WR Entertainment had requested, and received, permission in July to refinance the debt for the Emmetsburg and Clinton projects under one loan with the Dubuque Bank and Trust. During the last five or six months, Dubuque Bank and Trust has been unable to put the package together. Mr. Timmons advised that Dubuque Bank and Trust will maintain the debt financing for the Clinton project, and West Bank will maintain the Emmetsburg financing. He stated that he had a term letter with him, which he sent to Mr. Ketterer and Brian Ohorilko, Director of Gaming, last Friday.

Mr. Ketterer stated that he did not believe Commission action was necessary as there was essentially no change in the existing debt financing, except a better interest rate. Mr. Timmons indicated that was correct, and that there was no change in the amounts being borrowed.

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by WRE. Commission Urban seconded the motion, which carried unanimously. (See Order No. 08-10)

Chair Cutler called on WR Clinton (WRC). Tim Bollmann, General Manager, presented the following contracts for Commission approval:

- River Marine, LLC – Sale of Mississippi Belle II Vessel, Associated Support Barges, Marine Equipment and Miscellaneous FFE
- Midwest Lumber Museum – Sale and Donation of Land to Midwest Lumber Museum
- Control Installation of Iowa – Purchase and Installation of Digital Surveillance Hardware and Software for new Wild Rose Casino Project
- Martin Brothers Distributing – Purchase and Installation of Kitchen and HVAC Fixtures and Equipment for New Wild Rose Casino Project
- ABC Electrical Contractors L.L.C. – Provide Low Voltage Cabling and Installation for new Wild Rose Casino Location
- Wellmark Blue Cross Blue Shield of Iowa – Provide Employee Health Benefits
- Wild Rose Entertainment – Increase Value of Management Contract to reflect Full Year of Operation (RP)
- Holmes Murphy - Insurance Provider
- Lamar Advertising – Billboard Advertising
- Kelly Heating and Oil – Diesel Fuel for Boat
- Wild Rose 401K Plan – Change in Vendor Name

Mr. Ketterer asked for a construction update. Mr. Bollmann advised that due to the winter weather, the project is approximately a week behind.

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Bair moved to approve the contracts as submitted by WRC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 08-11)

Chair Cutler called on IOC Marquette (IOCM). Barron Fuller, General Manager, presented a contract with Windsor Place Inn for guest lodging.

Commissioner Bair noted the contract was with a facility across the river. Mr. Fuller advised that there are ongoing discussions in an attempt to get another hotel in the Marquette/McGregor vicinity, whether it is their own or by a chain. He indicated they also utilize local properties, but they don't meet the \$100,000 threshold for submission.

Hearing no further comments or questions concerning the contract, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the contract as submitted by IOCM. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-12)

Chair Cutler called on Catfish Bend Casino II (CBC). Jerry Baum, General Manager, presented the following contracts for Commission approval:

- Fleck Sales – Purchase of Beer
- Golden Eagle – Purchase of Beer
- HyVee Wine & Spirits – Purchase of Liquor
- Hall Towing – Store and Move Vessel
- Hoyer, Reding, and Santiago – Legal Work
- ShuffleMaster – Shuffler and Games Lease
- Solutions, Inc. – Marketing and Advertising
- Southeast Iowa Regional Riverboat Commission – Payment to Not-for-Profit License Holder
- Employee Benefit System – Employee Health Insurance
- Holmes Murphy – Property and Liability Insurance

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Urban moved to approve the contracts as submitted by CBC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 08-13)

Chair Cutler called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, presented the following contracts for Commission approval:

- Medical Associates HMO – Employee Health Insurance
- Medical Associates HMO – Employee Health Insurance

- Qwest – T1 Phone Line
- International Assoc. of Machinists – Labor Agreement for Mutuel Department
- International Union of Operating Engineers – Labor Agreement for Maintenance Dept.
- Konami Gaming, Inc. – Purchase Slot Machines and Equipment
- Bally Technologies – Purchase Slot Machines and Equipment
- Bally Technologies – Lease Slot Machines
- Micro Gaming Technologies – Rich Rewards Kiosks
- Anderson Weber, Inc. – Shuttle Bus Lease

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by DGP&C. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-14)

Commissioner Bair asked about gaming equipment companies located in Iowa. Mr. Ketterer noted that IGT had a presence in Council Bluffs. He stated that another company, Midwest Gaming, who primarily manufactures Class 2 gaming machines and bingo equipment is also located in Council Bluffs.

Chair Cutler called on Bluffs Run Greyhound Park regarding their request to amend the previously approved race dates for 2008. Ms. Magdefrau requested the following amendments:

- Change the number of racing performances for June from 21 to 22 to correspond with the number shown on the racing calendar; and increase the number of races from 325 to 330 to reflect the additional performance shown on the calendar, and
- The calendar shows Bluffs Run closed on Easter; however the date reflected is for April 27th, the date of the Eastern Orthodox Easter, instead of March 23, 2008, which is the date recognized by the majority of individuals in Iowa. Bluffs Run is requesting permission to switch out the schedules shown on the racing calendars for March 23rd and April 27th. The performance would start at 4:00 PM on April 27th.

Mr. Ketterer advised that he had received a letter from the Iowa Greyhound Association stating that they had no objections to the requested amendments. Hearing no additional comments or questions concerning the request, Chair Cutler requested a motion. Commissioner Bair moved to approve Bluffs Run's request to amend the approved race dates for 2008. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 08-15)

Chair Cutler called on PMR&C. Gary Palmer and Dan Doocy, General Manager and Racing Secretary respectively, presented the season approvals for the thoroughbred and mixed meets for Commission approval.

Chair Cutler called on Mr. Ketterer for comments. Mr. Ketterer stated that the purse supplement agreements normally include other matters of mutual interest between the track and the horsemen's organizations. He noted that PMR&C has reached purse supplement agreements with the quarter horse and standard bred associations for three year agreements, even though it was determined earlier in the meeting that the Commission can not approve those agreements as PMR&C has not reached an agreement with the thoroughbred group. Mr. Ketterer asked if there has been any progress in reaching an agreement with the thoroughbreds. Mr. Palmer advised that the parties are negotiating on two points at this time – one which goes to PMR&C's board on January 23rd. He asked Mr. Doocy to discuss the second issue – determination on the number of additional races. Mr. Doocy advised that this issue deals with Section 9 of the ancillary agreement, which indicates there would be no fewer than nine races per day during the thoroughbred meet, pending availability of horses, and no fewer than six races per day during the mixed meet. PMR&C amended the agreement to read no fewer than five thoroughbred races per day from September 1 to the end of the meet. The area of concern centers on when and how the determination would be made to have an extra race per day, and if it happened prior to September, which breed on which day would get the extra race if both breeds have the availability. It was determined that the Racing Department would make the determination based on established criteria and let the horsemen know in advance.

Chair Cutler called for any additional comments. Mr. Ketterer suggested that the Commission hear the update concerning the track surface. Mr. Palmer advised that Bob Gorla, Director of Facilities, and Tim Mallicoat from Hallett Materials, were present to address this issue. Mr. Gorla stated that a new surface was put on the racetrack in November 2007. He advised that Michael DePew with Environmental Technology Services served as the consultant to help determine the correct mix of material. Hallett Materials provided Mr. DePew with samples of the available sand and dirt, which he analyzed, and then came up with two kinds of sand and one kind of dirt that would be suitable for the mix. A 45-45-10 blend of materials, with the final result being 87.2% sand, 7% silt and 5.8% clay, was installed on the track. Mr. DePew performed spot checks while the mix was being formulated, and has analyzed the final result, and has indicated that he is pleased with the final result.

Mr. Ketterer asked if anything was done to the base of the track, or if just the track surface was replaced. Mr. Gorla indicated just the track surface was replaced. Mr. Ketterer asked if there was an abundance of material to replace portions of the surface as the live race meet proceeds due to rain, the effects of normal racing, etc. Mr. Gorla advised there is sufficient material of the old mix; however, every bit of material that could be located for the new track surface has been utilized. He indicated there are several tons to be made, but that can not be done in the winter. Mr. Gorla advised that

Hallett Materials is searching for more sand in Iowa and Nebraska at this time. Mr. Gorla stated that PMR&C has approximately 4,000 tons of backup material in the old mix. Mr. Ketterer stated that if PMR&C felt there were problems with the old track surface, it would not be the best choice to put that material back on the track. Mr. Gorla concurred, stating that it is PMR&C's intention, along with the research being conducted by Hallett Materials, to have more material made. He reiterated that all of the sand that could be located in Iowa and surrounding states has been used. Mr. Ketterer requested an update on the materials search at the April meeting, which takes place a couple days prior to the start of the thoroughbred meet.

Commissioner Hamilton asked how close this mixture is to a synthetic track surface. Mr. Gorla indicated they are not anywhere close; that PMR&C's track is a dirt surface.

Commissioner Bair asked if there was any kind of precedent for the mix used. Mr. Gorla advised there is a significant amount of analyzing done to determine the correct mix. He noted that Mr. DePew works with numerous tracks across the country to help determine the right mixture – the right granular size of sand with no sharp edges to cut the horses' hooves and various gradations so that it binds with the other materials and holds together. Mr. Gorla indicated the process is very complicated, and that the surface at PMR&C is probably unique to PMR&C as are the surfaces at the other tracks as they are working with local materials. Mr. Ketterer advised that dirt tracks are 85-90% sand with some silt/clay mixture to bind the sand together. The sand allows the track to drain following a rain. The climate of the track locale also makes a difference as to the makeup of the track surface.

Commissioner Urban thanked Dr. Keith Soring, Director of Racing for IRGC, for his updates on the synthetic tracks. She asked Mr. Palmer if PMR&C was continuing to study the synthetic track issue. Mr. Gorla advised that staff members from PMR&C would be attending a conference early this summer with track superintendents from across the country. He indicated the conference is being held at a track location that has installed the synthetic surface.

Hearing no further comments or questions concerning the season approvals or the track surface, Chair Cutler requested a motion. Commissioner Seyfer moved to approve the season approvals for the thoroughbred only and mixed meets, including the following staff contingencies:

- The immediate written notification of any change in racing official positions.
- The completion of necessary IRGC licensing and DCI backgrounds.
- Continuation of all import/export simulcast contracts being reviewed and approved by IRGC staff.
- Prior notification and approval of any schedule changes: race days, post times, or the number of races.

Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 08-16)

Mr. Palmer noted that Mr. Ketterer had asked Mr. Palmer to ask the following questions of the PMR&C Board:

- Is it a priority with PMR&C and its Board, based upon \$200 Million AGR per year, to have a thoroughbred and quarter horse racing program that is the best or equal to the best in the region and attracts the best horses, trainers, jockeys and, therefore, the most fans; or
- Are PMR&C and its Board only interested in allocating the minimum amount for purses and other resources to fulfill statutory and regulatory requirements?

He indicated that he had a response from the Board, which he distributed to the Commission. Mr. Palmer asked that either he, Jack Bishop, Chair of the Board, or Tom Flynn, legal counsel, be consulted if there were any questions concerning the response.

Chair Cutler and Mr. Ketterer requested a synopsis of the response. Mr. Palmer read the response into the record. A copy is attached and incorporated in its entirety by this reference. Mr. Palmer noted that the response contains thoughts from all 15 board members on these two questions.

Commissioner Urban noted that the “heat” is on PMR&C as there have been many articles recently regarding the costs associated with racing. She encouraged Mr. Palmer and PMR&C to look at possible changes: racing dates, etc. Commissioner Urban noted that PMR&C has numerous people to satisfy, and while they have done things well, there is always room for improvement.

Chair Cutler asked if PMR&C had any time line associated with the last paragraph. Mr. Palmer indicated that it was a constant, on-going process. Commissioner Cutler asked how the Commission would know that an evaluation had taken place. Mr. Palmer advised they would make the Commission aware of the evaluation and any steps taken as a result.

Mr. Ketterer concurred with Chair Cutler’s comments. He stated that it has not been apparent, at least to this Commission, how PMR&C does feel on these issues. Mr. Ketterer indicated they are important issues and should be evaluated by the Board; however, no one knows where the Board stands or why they have taken a specific position. He suggested that if the Board could put a plan in writing for racing for the next three-to-five years, it would not only be helpful for the Commission and horsemen, but also for PMR&C.

Commissioner Hamilton noted that one of the items not mentioned in the response was the economic impact of the horse industry in Iowa. She noted one of the recent articles in

the Des Moines Register mentioned a figure of approximately \$250 million, which she feels needs to be kept in mind when individuals talk about doing away with horse racing, and is just as important as the amount paid out in purses.

Commissioner Urban asked if there was a breakdown of the costs. Mr. Palmer answered in the affirmative, and then asked if she was referring to the \$29-30 million cost of racing. Commissioner Urban indicated she was referring to the economic impact figure. Mr. Palmer advised there was a study done eight to ten years ago by a professor at Iowa State University. He noted there was controversy surrounding that study as well. He recommended that another study be done. Mr. Palmer stated that he personally does not hear any talk about getting rid of horse racing by anyone on the Board, but does read the comments printed in the newspaper. One of the concerns of management and the Board is where expenses can be minimized while maximizing purses based on the numbers from the recent internal study.

Commissioner Hamilton stated that she thought the numbers would be higher than they were eight-to-ten years ago, due to the increased costs, etc., but concurred that it would be beneficial to have a new study done.

Chair Cutler also asked for a breakdown of the \$29-30 million losses associated with the racing program. Mr. Palmer advised the Commission normally receives that information in the annual audit. Chair Cutler noted that allocated costs are fixed costs that would still be incurred if racing was not taking place. She asked for information that would provide additional clarity on this issue as the Commission does receive questions on this matter.

Commissioner Bair asked if an official report was released on the racing costs. Mr. Palmer advised that it was part of an internal audit performed every year that shows the losses on the pari-mutuel side. Additionally, the Board requested that staff prepare a listing of costs associated with racing, which was done to the best of their ability.

Mr. Ketterer asked Mr. Palmer how much money goes to Polk County each year from PMR&C. Mr. Palmer answered approximately \$27 million, including rent and profit-sharing. Mr. Ketterer asked how much of those funds go back into capital improvements at PMR&C. Mr. Palmer indicated none. Chair Cutler indicated she thought that was the point Mr. Ketterer was attempting to make.

Hearing no further comments or questions on this matter, Chair Cutler moved to the additional contracts. Mr. Palmer submitted the following contracts for Commission approval:

- Audio Visual Inc. – Audio Visual Equipment, Parts & Service
- Bankers Trust Company – ATM Services Agreement Renewal (RP)
- Control Installation of Iowa, Inc. – Surveillance Equipment
- Daktronics, Inc. – Electronic Display Equipment
- Des Moines Register – Advertising & Subscription Expense

- Hockenbergs Foodservice Equipment – Food Service Equipment & Supplies
- Imagine This – Promotional Items
- Konami Gaming Inc. – Purchase of Various Slot Games
- Mid-Iowa Solid Waste Equipment Company – Waste Handling Equipment
- Players Travel Inc. – Promotional Travel
- Trans-Lux West Corporation – Electronic Display Equipment

Hearing no comments or questions concerning the contracts, Chair Cutler requested a motion. Commissioner Urban moved to approve the contracts as submitted by PMR&C. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 08-17)

Chair Cutler moved to the hearing for Catfish Bend Casinos II (CBC) for a violation of Iowa Code Section 99F.9(5) (Wagering-age restriction). Mr. Ketterer advised that a Stipulated Agreement had been reached with CBC. He noted that on September 8, 2007, a minor female and six companions were not challenged by a security officer at the turnstile. The underage female exited the facility, re-entered five minutes later without being challenged at which time she gambled for approximately five hours. The following day, September 9th, the same underage female and three companions entered the facility unchallenged, and gambled for 2-3 hours. On September 14th, a security officer requested identification from the underage female and her companions. They stated they were frequent patrons and requested that he contact a second security officer who could vouch for them. The second officer did vouch for the group. The underage female played a slot machine, had further contact with the second security officer, and bought in at a craps table and roulette table later on. She was discovered when another CBC employee advised the manager on duty that an underage person was playing roulette. After being escorted from the gaming floor, and being interviewed by Division of Criminal Investigation agents, the individual admitted she was nineteen years of age, and acknowledged that she had been admitted on previous occasions without being asked for identification.

Mr. Ketterer stated that staff and CBC had agreed on a \$20,000 administrative penalty, and asked for the Commission's approval.

Hearing no comments or questions concerning the Stipulated Agreement, Chair Cutler requested a motion. Commissioner Hamilton moved to approve the Stipulated Agreement as submitted. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 08-18)

Commissioner Bair asked if there was a casino that was going to pursue legal action against a minor. Chair Cutler indicated she thought it was Riverside. Commissioner Bair asked the status. Ken Bonnet advised that the individual has vanished from the face of the earth; they have been unable to locate her in order to serve her with papers. He indicated that Riverside would pursue action against any minor in a similar situation.

Chair Cutler moved to Administrative Business. Mr. Ketterer advised that he is sitting on a couple of hearings involving voluntary self-exclusion violations. He noted the Commission went through a process which involved a subcommittee of the Commission, and looked at criteria for violations and an appropriate penalty. Mr. Ketterer stated there have been more violations than he originally anticipated. He indicated that he has had conversations with several of the general managers; and had encouraged Mr. Aviles to bring his concerns to the Commission prior to proceeding with any more hearings on this issue. Mr. Ketterer stated he was not sure if those concerns would impact the subcommittee's findings or not, but felt a discussion was in order. He indicated no decisions would be made at this time.

Mr. Aviles advised that he has been involved in the gaming industry for 36 years, 29 in a general manager position or higher. He has served on three gaming commission associations, and as treasurer and past president of the Iowa Gaming Association (IGA). Mr. Aviles stated that he values the worth of the self-exclusion program, but is also a huge advocate for the employees at Diamond Jo Worth (DJW), noting they are very serious about the self-exclusion program. The property has several lines of defense in place: security at the turnstiles, ambassadors, managers, and cage cashiers. He stated the property has been very successful in deterring a number of people on the list from gambling by identifying them before they gain entrance to the casino; however, the problem with the program is that no responsibility is placed on the individual who has placed themselves on the list. Mr. Aviles stated that unless the individual hits a jackpot with a tax deduction, they could sneak back into the casino and gamble unnoticed. Missouri's program, which requires each individual to identify themselves, creates a red light/green light situation. If the individual is on the list, they are automatically denied access. Mr. Aviles stated that Iowa's program is not there yet technologically.

Mr. Aviles stated that while DJW's employees are very proactive in trying to identify these individuals; they have encountered individuals who have done "switches" when they have hit a jackpot, and have also identified individuals through surveillance. He stated that it is hard to keep the employees motivated in this area when they know the facility will be hit with a fine if they miss someone, or as in DJW's case, they self-police themselves, have to take disciplinary action against the employee, plus a fine for the facility. He believes the employees will eventually decide not to advise of an error in this area. In the situation at DJW, the individual who was identified as being on the list, stated that they had won a jackpot four months previously and did not encounter any problems in collecting the money. DJW staff spent numerous hours going through surveillance and cage tapes in order to locate the jackpot. Even though DJW had paid the jackpot to the individual, they have also sent the money to the Iowa Gambling Treatment Program as required by statute. Mr. Aviles noted this is one instance out of the many that have been stopped. He reiterated his belief that the individual needs to share in the burden of their actions. He does not want to pursue legal action against an individual who has placed themselves on the list as they would be pursuing an individual who has admitted they have an addiction. In his opinion, that sets up a bad public relations situation.

Mr. Aviles stated that he feels the program is great, and is appreciative of the fact that the Commission holds the licensees' feet to the fire as they have a responsibility in this area, but feels the individual on the list needs to share the responsibility for their actions. Many of those individuals are aware that if they win, they can not collect the jackpot.

Commissioner Bair asked Mr. Aviles if he had any recommendations. He asked if the general managers or the IGA had held discussions about holding the individual responsible.

Mr. Aviles stated that he could not speak for the IGA, but stated that the economic and negative impact on the employees is hard to accept knowing the individual will not be held responsible for his actions. He noted that while the option to charge the individual with trespassing is available, he is not aware of any County Attorney who will take the case to court, especially in his area. Mr. Aviles stated the law does not have any teeth in the other end, where it would have an impact.

Mr. Ketterer called on Joe Massa, General Manager at Riverside. Mr. Massa stated that he concurred with the concerns expressed by Mr. Aviles. He stated that the following comments are his personal thoughts, not those of Riverside. Mr. Massa stated that a majority of people who ban themselves from the casinos do so because of pressure from their spouse, children, etc. He also believes the program offers a false sense of security to the individuals banning themselves, as well as their families. Mr. Massa noted that the program now contains over 2,200 names. Those individuals who want to continue to gamble will find a way to do so; they know that as long as they don't join the Player's Club, are willing to give up a jackpot over a taxable amount or switch so someone else claims it for them, they can continue to gamble. Mr. Massa stated that the facilities do everything they can to keep those individuals from gambling. In his opinion, the self-ban program holds out false hope for individuals that the facility will take care of their problem for them. Mr. Massa stated that he has been around addiction is entire life, and is very sensitive to the issue. He noted that if people do not want to solve their own problems, it will not be solved. Mr. Massa advised that the facilities will help as much as possible, but do not have the ability to fix the problem. He noted that some people have the attitude that if they ban themselves, the problem is taken care of because no one will let them gamble; but then decide to try to see if they can get by with it. Mr. Massa noted that Riverside staff found an individual on the floor over the weekend that had banned themselves. He noted that when the individual was confronted, there was a scene between Riverside security, Division of Criminal Investigation agents and the individual, who claimed false identification, that the picture wasn't the same, and called the security and DCI personnel names. Mr. Massa stated that the gaming industry takes problem gambling seriously and doesn't want those individuals gambling in their facilities.

Mr. Massa stated that he feels the fines are out of proportion, and don't recognize the positive steps taken by the facilities. He noted that the facilities turn themselves in, when it would be easier to stay quiet; however, they don't operate that way. It is human nature for people to make mistakes. He stated that every property is doing the best they can to

identify individuals in the program, and are happy to participate. He feels the fines will become counterproductive.

Commissioner Urban asked if the self-exclusion program is something used across the country, or if it is unique to Iowa. Mr. Massa advised that the program is not unique to Iowa, that there are programs operating at various levels in other states, and some have gone farther than Iowa. He stated that he hoped Iowa would not go down that road. He noted that some states require every individual to present identification in order to gain entry into a casino.

Wes Ehrecke, Executive Director of the IGA, noted that the facilities were required by law to establish the state-wide voluntary self-exclusion program, which requires any jackpots won by individuals in the program to be forfeited to the Iowa Gambling Treatment Program. He agreed with comments by Messrs. Aviles and Massa that the facilities have been very pro-active in this area and in trying to get people help. He believes the Legislature intended the program to be treated as a tool; that withholding the jackpots from individuals in the program would serve as a deterrent. Mr. Ehrecke stated the facilities remove those individuals from the mailing lists and the Players' Club, but again there is room for human error. He believes the area to focus on is the jackpot area. Mr. Ehrecke stated that the facilities have paid approximately \$180,000 annually to the Gambling Treatment Program due to their diligence in this area.

Mr. Ketterer stated that he doesn't disagree with any of the previous comments. He noted that the Commission is charged with regulating the Statute, and it is one of the powers delineated in the Code section of the Commission regarding the self-exclusion program. He pointed out that the Legislature included disclaimers stating that the state, Commission and licensees are not to be held liable by the family or friends of an individual that gambles who has been excluded, but also included a provision that calls for the dissemination of the information when an individual signs up for the program to all facilities. Mr. Ketterer noted that there is no way to stop those individuals who choose to continue gambling after signing up for the program. He believes the Commission feels that if the facilities are going to the trouble of collecting the information and disseminating it to everyone, that the individual should be able to be identified at the cage if they are presenting identification in order to collect a jack pot, whether it is the first or 50th time they have gambled since banning themselves.

Mr. Ketterer stated that he wanted to hear all of the comments expressed this morning, noting that he has heard most of it previously. He stated that he understands the problems facing the facilities, but feels the licensees have to accept some responsibility. He questioned whether they need to look for a better way to screen individuals technology-wise. Mr. Ketterer indicated he would be contacting the Commission members individually to get their input for further discussion on this issue at a later date. Mr. Ketterer encouraged the IGA and the facilities to look for a solution on this issue if they are not happy with what is currently in place.

Mr. Ketterer announced that Dr. Keith Soring has been named the permanent Director of Racing, noting that he has served in an interim capacity for most of the previous year. He stated that Dr. Soring is a valuable addition to the Commission staff.

Chair Cutler moved to Public Comment. Commissioner Urban noted that she and her husband had the opportunity to spend New Year's Eve at Terrible's Lakeside while waiting for a family member to arrive on Amtrak in Osceola. While waiting in the restaurant at Lakeside, they had the opportunity to visit with many people who were waiting in line for the buffet, as well as others who came in from the surrounding area. Commissioner Urban commended Terrible's for their efforts in the area, noting that many talked as if Terrible's served as a community center, providing entertainment, food, etc.

Hearing no further comments, Chair Cutler requested a motion to adjourn. Commissioner Hamilton so moved. Commissioner Bair seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK